Glossary of key terms used in the context of "Access and Benefit-sharing"

ABS: Acronym for "Access and Benefit-Sharing". It is used to refer to the way in which genetic resources or traditional knowledge associated with such resources is accessed and how the benefits that result from the utilisation of such resources and associated traditional knowledge are shared with the countries and/or indigenous and local communities providing them.

Access and Benefit-sharing Clearing-House: The term refers to the global information portal that is established by the Nagoya Protocol and will be maintained by its international Secretariat. The Protocol identifies information that Parties either must or may submit to the Clearing-House.

Biodiversity: Is a term defined in the CBD and refers to the variability that exists among living organisms from all sources including among other things, terrestrial, marine and other aquatic ecosystems and the ecological complexes which they are part of. It includes diversity within species, between species and their ecosystems.

Bio-prospecting: The term refers to the process of looking for potentially valuable genetic resources and biochemical compounds in nature.

Convention on Biological Diversity (CBD): the CBD is one of the three global environmental agreements adopted by the 172 states that participated in the 1992 UN Conference on Environment and Development in Rio de Janeiro. 108 heads of state and government attended the meeting.

Competent National Authorities (CNAs): This term used in the Nagoya Protocol refers to domestic administrations established by governments and responsible for granting access to their genetic resources. They represent providers on a local or national level. The Nagoya Protocol obliges its Parties to establish competent national authorities for ABS. The CNAs in terms of the Nagoya Protocol must be distinguished from the competent authorities in terms of the EU ABS regulation. The latter will be those authorities designated by EU Member States for the purpose of implementing the EU ABS regulation.

Compliance: Compliance is either a state of being in accordance with established guidelines, specifications, or legislation or the process of becoming so. In the context of public international law and the Nagoya Protocol it describes the situation where a state fulfils its obligations as they arise from an international treaty. The term user-compliance in contrast is used when referring to the fulfilment of users of genetic resources or associated traditional knowledge with specific ABS requirements that may be set out in domestic access frameworks of provider countries, in access permits, in specific benefit-sharing contracts, or in general user-compliance laws of countries where genetic resources and associated traditional knowledge are being utilised.

Genetic material: Is a term identified in the CBD and means any material of plant, animal, microbial or other origin containing functional units of heredity.

Genetic resources: Is a term identified in the CBD and means all genetic material of actual or potential value. Essentially, the term encompasses all living organisms (plants, animals and microbes) that carry genetic material potentially useful to humans. Genetic resources can be taken from the wild, domesticated or cultivated. They are sourced from: natural environments (in situ) or

human-made collections (ex situ) (e.g. botanical gardens, gene banks, seed banks and microbial culture collections).

Genetic resources value chain: The term is used to describe the totality of typical steps taken to create environmental, social and economic value on genes and naturally occurring bio-chemicals found in nature. The genetic resources value chain starts with the collection of some material and possibly ends with the successful commercialization of a final product. Typical steps taken are the collection of genetic resources, the storage of collected material, basic research on genetic resources, applied research on genetic resources, the development of products and eventually the commercialization of products. Not all these steps will necessarily be taken for each sample collected in the wild. Not all collected material is stored in collections. In a few cases material is collected by an agent of a company specifically interested in a sample of a known organism. Also, most basic research will not result in concrete applications. And much applied research ends unsuccessfully without moving to the development of a product. Likewise, many development efforts never make it to the product approval stage. The genetic resources value chain is generally explained in Annex 7 of the Impact Assessment. The particular characteristics of the genetic resources value chain in the EU are detailed in Annex 8 of the Impact Assessment.

Indigenous and Local Communities (ILCs): The CBD and the Nagoya Protocol do not define this term. It is left to the Parties of the Protocol to define this term in their implementing measures. In the context of the Nagoya Protocol the term ILCs is generally understood to encompass communities living close to nature and holding genetic resources and traditional knowledge associated with genetic resources.

In-situ & Ex-situ: Genetic resources can be wild, domesticated or cultivated. "In-situ" genetic resources are those found within ecosystems and natural habitats. "Ex-situ" genetic resources are those found outside their normal ecosystem or habitat, such as in botanical gardens or seed banks, or in commercial or university collections.

Internationally recognised certificate of compliance: The Nagoya Protocol establishes that domestic access permits that are made available to the Protocol's Clearing-House shall constitute "internationally recognised certificates of compliance". All Parties with users in their jurisdiction must recognise such certificates as evidence of acquisition in accordance with applicable rule of the genetic resource covered.

Meeting of the Parties: As per usual practice, the Nagoya Protocol identifies that the regular meetings of the collective of the Parties to the Protocol function as its supreme decision making body. These meetings are referred to as "meeting of the parties" or "meeting of the Parties to the Protocol". The Protocol establishes that the meeting of the Parties to the Nagoya Protocol must be organised concurrently with the meetings of the supreme decision-making body of the CBD, the "conference of the parties". These joint meetings will be referred to as CoP-MoP. CoP-MoP 1 will likely be held concurrently with CBD CoP 12 in October 2014.

Mutually Agreed Terms (MAT): Is a term used in Article 15 CBD and establishes that specific benefit-sharing conditions must be "mutually agreed" between providers and users of genetic resources. The term is also used in the Nagoya Protocol. Given their "mutually agreed" nature, MAT are

contractual arrangements and will normally be set out in private law contracts. The EU ABS regulation contains a definition of this term which is decisive for the application of the regulation.

National Focal Points (NFPs): Domestic administrations responsible for providing information on ABS, such as the requirements for gaining access to genetic resources. All Parties to the Nagoya Protocol must establish a National Focal Point.

Prior Informed Consent (PIC): In the context of ABS and the Nagoya Protocol PIC refers to the administrative permit given by the competent national authority of a provider country to a user, prior to accessing genetic resources. However, the term is also used in relation to the right of indigenous and local communities to take a free and informed choice on whether they wish to give access to genetic resources or traditional knowledge associated with genetic resources. Parties to the Nagoya Protocol are obliged to include their ILCs in the process of granting access to genetic resources and traditional knowledge associated with genetic resources.

Providers of genetic resources: States have sovereign rights over their natural resources and can decide to establish access legislation. Within the exercise of their sovereignty, states will determine who holds rights over genetic resources in their domestic legal order and who has the authority to grant access to genetic resources or traditional knowledge associated with genetic resources and who should be involved in the negotiation of mutually agreed terms with potential users etc. The possibilities range from public ownership over genetic resources, to a system where the rights over genetic resources follow the private property rights over the land. Even in case of public ownership over genetic resources, a national government will typically delegate the authority to grant prior informed consent to a sub-national (e.g. regional authority) or non-state entity (e.g. a reference collection). See under Competent National Authority.

Traditional knowledge associated with genetic resources: The CBD and the Nagoya Protocol do not define this term; it is left to the Parties of the Protocol to define this term in their implementing measures. For the purpose of implementation, the EU ABS regulation of the term is decisive for the application of the regulation. At the international level, there are ongoing negotiations on the broader term of 'traditional knowledge', i.e. without the reference to genetic resources, in the World Intellectual Property Organization (WIPO). In the context of the Nagoya Protocol, the term is used in relation to the knowledge, innovations and practices of indigenous and local communities that result from the close interaction of such communities with their natural environment, and specifically to knowledge that may provide lead information for scientific discoveries on the genetic or biochemical properties of genetic resources. It is characteristic of traditional knowledge that it is not known outside the community holding such knowledge. In the context of ABS this means, that traditional knowledge may easiest be identified if described or referred to in a specific benefit-sharing contract.

Users of genetic resources: A diverse group, including botanical gardens, industry researchers such as pharmaceutical, agriculture and cosmetic industries, collectors and research institutes. They seek access for a wide range of purposes, from basic research to the development of new products. The EU ABS regulation contains a definition of this term which is decisive for the application of the regulation.